



Reprinted
February 20, 2001

HOUSE BILL No. 1706

DIGEST OF HB 1706 (Updated February 19, 2001 4:27 PM - DI 96)

Citations Affected: IC 22-3; IC 22-4; IC 22-5.

Synopsis: Temporary employees in the construction trades. Provides that a temporary employee in the construction trades who is placed by a temporary employment agency with an third party client company employer is an employee of the third party for worker's compensation purposes. Provides grounds for disqualification for unemployment benefits for a temporary employee. Regulates temporary employment agencies that place temporary employees in the construction trades with third party client companies. Provides that a temporary employment agency that violates or fails to follow these regulations commits a Class A misdemeanor. Provides that a temporary employee in the construction trades who is not compensated in the manner provided, or who is charged for various items or services, may bring a civil action against the temporary employment agency. Requires the department of labor to enforce the provisions.

Effective: July 1, 2001.

Liggett

January 17, 2001, read first time and referred to Committee on Labor and Employment.
February 13, 2001, amended, reported — Do Pass.
February 19, 2001, read second time, amended, ordered engrossed.

HB 1706—LS 7723/DI 96+



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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1706

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-3-6-1, AS AMENDED BY P.L.31-2000,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the
4 context otherwise requires:

5 (a) "Employer" includes the state and any political subdivision, any
6 municipal corporation within the state, any individual or the legal
7 representative of a deceased individual, firm, association, limited
8 liability company, or corporation or the receiver or trustee of the same,
9 using the services of another for pay. A parent or a subsidiary of a
10 corporation or a lessor of employees shall be considered to be the
11 employer of the corporation's, the lessee's, or the lessor's employees for
12 purposes of IC 22-3-2-6. If the employer is insured, the term includes
13 the employer's insurer so far as applicable. However, the inclusion of
14 an employer's insurer within this definition does not allow an
15 employer's insurer to avoid payment for services rendered to an
16 employee with the approval of the employer. The term also includes an
17 employer that provides on-the-job training under the federal School to

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1 Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth
2 in IC 22-3-2-2.5.

3 (b) "Employee" means every person, including a minor, in the
4 service of another, under any contract of hire or apprenticeship, written
5 or implied, except one whose employment is both casual and not in the
6 usual course of the trade, business, occupation, or profession of the
7 employer.

8 (1) An executive officer elected or appointed and empowered in
9 accordance with the charter and bylaws of a corporation, other
10 than a municipal corporation or governmental subdivision or a
11 charitable, religious, educational, or other nonprofit corporation,
12 is an employee of the corporation under IC 22-3-2 through
13 IC 22-3-6.

14 (2) An executive officer of a municipal corporation or other
15 governmental subdivision or of a charitable, religious,
16 educational, or other nonprofit corporation may, notwithstanding
17 any other provision of IC 22-3-2 through IC 22-3-6, be brought
18 within the coverage of its insurance contract by the corporation by
19 specifically including the executive officer in the contract of
20 insurance. The election to bring the executive officer within the
21 coverage shall continue for the period the contract of insurance is
22 in effect, and during this period, the executive officers thus
23 brought within the coverage of the insurance contract are
24 employees of the corporation under IC 22-3-2 through IC 22-3-6.

25 (3) Any reference to an employee who has been injured, when the
26 employee is dead, also includes the employee's legal
27 representatives, dependents, and other persons to whom
28 compensation may be payable.

29 (4) An owner of a sole proprietorship may elect to include the
30 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
31 owner is actually engaged in the proprietorship business. If the
32 owner makes this election, the owner must serve upon the owner's
33 insurance carrier and upon the board written notice of the
34 election. No owner of a sole proprietorship may be considered an
35 employee under IC 22-3-2 through IC 22-3-6 until the notice has
36 been received. If the owner of a sole proprietorship is an
37 independent contractor in the construction trades and does not
38 make the election provided under this subdivision, the owner
39 must obtain an affidavit of exemption under IC 22-3-2-14.5.

40 (5) A partner in a partnership may elect to include the partner as
41 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
42 actually engaged in the partnership business. If a partner makes

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1 this election, the partner must serve upon the partner's insurance
 2 carrier and upon the board written notice of the election. No
 3 partner may be considered an employee under IC 22-3-2 through
 4 IC 22-3-6 until the notice has been received. If a partner in a
 5 partnership is an independent contractor in the construction trades
 6 and does not make the election provided under this subdivision,
 7 the partner must obtain an affidavit of exemption under
 8 IC 22-3-2-14.5.

9 (6) Real estate professionals are not employees under IC 22-3-2
 10 through IC 22-3-6 if:

11 (A) they are licensed real estate agents;

12 (B) substantially all their remuneration is directly related to
 13 sales volume and not the number of hours worked; and

14 (C) they have written agreements with real estate brokers
 15 stating that they are not to be treated as employees for tax
 16 purposes.

17 (7) A person is an independent contractor in the construction
 18 trades and not an employee under IC 22-3-2 through IC 22-3-6 if
 19 the person is an independent contractor under the guidelines of
 20 the United States Internal Revenue Service.

21 (8) An owner-operator that provides a motor vehicle and the
 22 services of a driver under a written contract that is subject to
 23 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor
 24 carrier is not an employee of the motor carrier for purposes of
 25 IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be
 26 covered and have the owner-operator's drivers covered under a
 27 worker's compensation insurance policy or authorized
 28 self-insurance that insures the motor carrier if the owner-operator
 29 pays the premiums as requested by the motor carrier. An election
 30 by an owner-operator under this subdivision does not terminate
 31 the independent contractor status of the owner-operator for any
 32 purpose other than the purpose of this subdivision.

33 (9) A member or manager in a limited liability company may elect
 34 to include the member or manager as an employee under
 35 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
 36 engaged in the limited liability company business. If a member or
 37 manager makes this election, the member or manager must serve
 38 upon the member's or manager's insurance carrier and upon the
 39 board written notice of the election. A member or manager may
 40 not be considered an employee under IC 22-3-2 through IC 22-3-6
 41 until the notice has been received.

42 (10) An unpaid participant under the federal School to Work

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Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(11) An employee who is placed by a temporary employment agency and who, in the course of employment, performs personal services on a temporary basis to a third party under the direction and control of the third party, is an employee of the third party under IC 22-3-2 through IC 22-3-6. This exception does not include independent contractors in the construction trades, as set forth in subdivision (7).

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-8.1-4-25, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-10.1-6-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen

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(17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of his earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-10.1-6-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that

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1 reviews a medical service provider's bills or statements for the purpose
 2 of determining pecuniary liability. The term includes an employer's
 3 worker's compensation insurance carrier if the insurance carrier
 4 performs such a review.

5 (g) "Billing review standard" means the data used by a billing
 6 review service to determine pecuniary liability.

7 (h) "Community" means a geographic service area based on zip
 8 code districts defined by the United States Postal Service according to
 9 the following groupings:

10 (1) The geographic service area served by zip codes with the first
 11 three (3) digits 463 and 464.

12 (2) The geographic service area served by zip codes with the first
 13 three (3) digits 465 and 466.

14 (3) The geographic service area served by zip codes with the first
 15 three (3) digits 467 and 468.

16 (4) The geographic service area served by zip codes with the first
 17 three (3) digits 469 and 479.

18 (5) The geographic service area served by zip codes with the first
 19 three (3) digits 460, 461 (except 46107), and 473.

20 (6) The geographic service area served by the 46107 zip code and
 21 zip codes with the first three (3) digits 462.

22 (7) The geographic service area served by zip codes with the first
 23 three (3) digits 470, 471, 472, 474, and 478.

24 (8) The geographic service area served by zip codes with the first
 25 three (3) digits 475, 476, and 477.

26 (i) "Medical service provider" refers to a person or an entity that
 27 provides medical services, treatment, or supplies to an employee under
 28 IC 22-3-2 through IC 22-3-6.

29 (j) "Pecuniary liability" means the responsibility of an employer or
 30 the employer's insurance carrier for the payment of the charges for each
 31 specific service or product for human medical treatment provided
 32 under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or
 33 less than the charges made by medical service providers at the eightieth
 34 percentile in the same community for like services or products.

35 SECTION 2. IC 22-4-15-1 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) With respect to
 37 benefit periods established on and after July 6, 1980, an individual who
 38 has voluntarily left his employment without good cause in connection
 39 with the work or who was discharged from his employment for just
 40 cause is ineligible for waiting period or benefit rights for the week in
 41 which the disqualifying separation occurred and until he has earned
 42 remuneration in employment equal to or exceeding the weekly benefit



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amount of his claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of his current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. When twenty-five percent (25%) of the maximum benefit amount, as initially determined, exceeds the unpaid balance remaining in the claim, such reduction will be limited to the unpaid balance.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from his prior employment if:

(A) he left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of betterment of wages or working conditions and thereafter was employed on said job for not less than ten (10) weeks;

(B) having been simultaneously employed by two (2) employers, he leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) he left to accept recall made by a base-period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be

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deemed to have left his work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, he shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because he is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's prior employment if:

(A) the prior employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

As used in this subsection **and in subdivision (8)**, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(8) The following provisions apply to an individual employed



by a temporary employment agency (as defined in IC 22-5-6-7):

(A) An individual who last was employed by a temporary employment agency is not considered to have quit employment voluntarily without good cause if the individual did not contact the temporary employment agency for reassignment upon completion of the assignment.

(B) When an individual who last was employed by a temporary employment agency:

(i) completes an assignment with a third party;

(ii) has indicated availability to accept a new assignment with a third party; and

(iii) is not offered a new assignment that is within the labor market and that has substantially equivalent compensation, benefits, and working conditions;

the individual is eligible for benefits, subject to the waiting period as set forth in IC 22-4-14-4.

(C) The failure of the individual to contact the temporary employment agency is not considered a disqualification if the temporary employment firm has violated any provision of state or federal law protecting employees of temporary employment with respect to the individual.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; or

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

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SECTION 3. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS
A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2001]:

**Chapter 6. Protection for Temporary Employees in the
Construction Trades**

**Sec. 1. As used in this chapter, "benefits" means any of the
following:**

- (1) Accrual of seniority.
- (2) Credit for length of service.
- (3) Disability and health insurance.
- (4) Holiday pay or time off.
- (5) Pension entitlement accrual.
- (6) Sick leave.
- (7) Vacation leave or pay.

Benefits are compensation provided in addition to wages.

**Sec. 2. As used in this chapter, "client company" means a
business that leases the services of employees or receives services
or functions through temporary employment agencies.**

**Sec. 3. As used in this chapter, "construction trades" means any
trade or occupation involving construction, alteration, remodeling,
repairing, wrecking or demolition, addition to, or improvement of
any building, highway, road, railroad, dam, bridge, structure, or
excavation.**

**Sec. 4. As used in this chapter, "department" refers to the
department of labor.**

**Sec. 5. As used in this chapter, "liquidity fee" means a penalty
charged by a temporary employment agency against:**

- (1) a temporary employee for accepting a position of
employment with the client company; or
- (2) a client company for hiring a temporary employee.

**Sec. 6. As used in this chapter, "substantially equivalent work"
means work on jobs:**

- (1) the performance of which requires equal skill, effort, and
responsibility; and
- (2) under similar working conditions.

**Sec. 7. As used in this chapter, "temporary employment agency"
means an employer that for a fee:**

- (1) recruits;
- (2) procures;
- (3) refers;
- (4) places; or
- (5) employs;



workers to perform personal services on a temporary basis to a third party client company under the direction and control of the third party client company.

Sec. 8. As used in this chapter, "temporary employee" means a temporary employment agency employee who, in the course of employment, performs personal services in the construction trades on a temporary basis to a third party client company under the direction and control of the third party client company. The term does not include independent contractors in the construction trades.

Sec. 9. A temporary employment agency shall post in its labor hall where temporary employees are required to appear for assignment to work, or if there is no such labor hall, provide to each temporary employee seeking employment, a list of all client companies at which work is available through the temporary employment agency. The list shall include the following for each job opportunity posted:

- (1) The name and address of the client company and the exact address of the worksite, directions to the worksite, and a telephone number at which a temporary employee could be reached in an emergency situation.
- (2) The type of job opportunity for temporary employees.
- (3) A detailed description of the work to be performed by the temporary employee, including any requirements for special attire, accessories, tools, or safety equipment.
- (4) The method of computing compensation and the amount of compensation and benefits to be paid for the work, and the overtime time rate of compensation if such might be available.
- (5) Any cost of the transportation to the temporary employee.
- (6) The duration of the work to be performed by the temporary employee, including:
 - (A) the time of day the work will begin;
 - (B) the time of day the work will end;
 - (C) the schedule of days on which the work will be performed;
 - (D) when the work is expected to end; and
 - (E) whether there is any possibility of overtime work or extension of the work past the anticipated end date.
- (7) Any safety or hazardous material information that is available to the temporary employment agency shall be made available to the temporary employee. Such information shall include, but is not limited to, a complete and accurate



description of worksite hazards to which the temporary employee may become exposed, including any hazardous materials that the temporary employee may be required to use or handle and any physical conditions or work practices that do not comply with applicable occupational health and safety standards.

(8) Whether a meal is provided, either by the temporary employment agency or the client company, and any cost of the meal to the temporary employee.

Sec. 10. A temporary employment agency shall:

(1) compensate temporary employees for work performed in the manner of payment set forth in IC 22-2-5-1;

(2) offer pay and benefits equal to those provided to the permanent employees of the client company to temporary employees who have been employed at the premises of the client company for a total of ninety (90) days or more, whether or not continuously, and who perform substantially equivalent work compared to employees of the client company where the temporary employees work;

(3) subject to subdivision (2), compensate temporary employees at a rate at or above the federal minimum wage which rate shall not be reduced to less than the federal minimum wage by deductions other than those permitted by federal or state law;

(4) include a written notification with each payment of wages to the temporary employee, which shall be included on the temporary help employee's statement of earnings and deductions, specifying:

(A) the hourly rate paid for the temporary help employee;

(B) the itemized deductions made from the wage payment made to the temporary help employee by the temporary agency; and

(C) an itemized list of benefits provided to the temporary help employee by the temporary employment agency; and

(5) provide each temporary employee with an annual earnings summary not later than February 1 for the preceding calendar year.

Sec. 11. A temporary employment agency shall not charge a temporary employee:

(1) for safety equipment, clothing, tools, accessories, or any other items required by the nature of the work, either by law, custom, or a requirement of the client company. This

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subdivision does not preclude the temporary employment agency from charging the temporary employee the market value of items temporarily provided to the temporary employee by the temporary employment agency if the temporary employee willfully fails to return the items to the temporary employment agency; however, no charge may be made for items damaged through ordinary use or lost through no fault of the temporary employee;

(2) for merchandise or supplies other than those referenced in subdivision (1), which the temporary employment agency makes available for purchase, at a higher price than merchandise or supplies sold to others, as provided in IC 22-2-4-3;

(3) to transport the temporary employee to or from a worksite;

(4) for directly or indirectly cashing a temporary employee's paycheck; or

(5) if a meal is provided at the worksite by the temporary employment agency, more than the actual cost of providing the meal, but the purchase of a meal may not be a condition of employment.

Sec. 12. (a) A temporary employment agency that operates a labor hall where temporary workers are required to appear:

(1) for assignment to work; or

(2) payment of compensation;

shall provide facilities for temporary employees waiting at the labor hall for a job assignment that includes restroom facilities, drinking water, and sufficient seating.

(b) A temporary employment agency shall insure at the minimum rate required by the law of the state in which the motor vehicle is registered any motor vehicle owned or operated by the temporary employment agency and used for the transportation of temporary employees.

(c) All advertisements of a temporary employment agency must contain the correct name of the temporary employment agency and one (1) of the following:

(1) The street address of the place of business of the temporary employment agency.

(2) The correct telephone number of the temporary employment agency at its place of business.

Sec. 13. (a) No temporary employment agency shall restrict the right of:



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(1) a temporary employee to accept a permanent position with a client company to whom the temporary employee is referred for temporary employment; or

(2) the client company to offer such employment to a temporary employee of the temporary employment agency.

However, this chapter does not restrict the temporary services company from receiving a reasonable liquidity fee from the client company.

(b) No temporary employment agency shall make or give, or cause to be made or given any false, leading, or deceptive advertisements, information, or representation concerning the services, compensation, or benefits, or work opportunities that the client company will provide to the temporary employees.

Sec. 14. The worker's compensation insurance premiums of a temporary employment agency shall be determined and paid based on the experience rating of the client company for which the temporary employee performs services if the client company has sufficient worker's compensation premium volume to be experience rated. Otherwise, the premiums shall be the rate approved for an employer that cannot be experience rated.

Sec. 15. A temporary employment agency or client company shall not:

- (1) discharge;
- (2) discipline; or
- (3) penalize in any other manner;

a temporary employee because the temporary employee, or a person acting on behalf of the temporary employee, reports a violation or alleged violation of section 9, 10, 11, 12, or 13 of this chapter to the temporary employment agency or to a local or state official, or because the temporary employee, or a person acting on behalf of the temporary employee, exercises any right under this chapter.

Sec. 16. A temporary employment agency that violates section 9, 11, 12, 13, or 15 of this chapter commits a Class A misdemeanor.

Sec. 17. (a) A temporary employee may bring a civil action against a temporary employment agency to enforce section 10 of this chapter and seek compensation for charges made in violation of section 11 of this chapter within two (2) years after the alleged violation.

(b) If a temporary employment agency violates section 10 of this chapter, the court may do the following:

- (1) Award:



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(A) treble damages for loss of wages and other benefits;
and

(B) court costs and reasonable attorney's fees;
to the prevailing temporary help employee.

(2) Enjoin further violations of this chapter by the temporary
employment agency.

Sec. 18. (a) The department and its authorized inspectors and
agents shall enforce this chapter. The department and its
inspectors and agents may visit and inspect, at all reasonable hours
and as often as practicable and necessary, all establishments
governed by this chapter.

(b) When requested in writing by the department, the attorney
general shall assist the department in the enforcement of this
chapter against all violations.

(c) In addition to the civil action that may be brought by the
temporary help employee under section 17(a) of this chapter, a
temporary employment agency that violates this chapter may be
assessed a civil penalty by the department of not less than two
thousand five hundred dollars (\$2,500) and not more than five
thousand dollars (\$5,000) for each offense. The department shall
collect the civil penalties and shall disburse the civil penalties as
reimbursement of wages to those temporary help employees who
have been found by the department to have been damaged by the
temporary employment agency's failure to comply with this
chapter, with any remaining balance deposited in the state general
fund.

(d) A civil penalty assessed under subsection (c):

(1) is subject to IC 4-21.5-3-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3
unless a person requests an administrative review not later
than thirty (30) days after notice of the assessment is given.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1706, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 9, line 4, after "is" insert "**not**".

Page 9, line 7, after "assignment." delete "The".

Page 9, delete lines 8 through 14.

and when so amended that said bill do pass.

(Reference is to HB 1706 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 7, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1706 be amended to read as follows:

Page 11, line 11, delete "(a)".

Page 11, line 29, delete "The hourly rate and any other fees or charges paid or"

Page 11, delete lines 30 through 32.

Page 11, line 33, delete "(6)".

Page 11, run in lines 29 and 33.

Page 11, line 33, delete "employee," and insert **"employee."**

Page 11, delete lines 34 through 38.

Page 12, line 6, after "(8)" insert **"Any safety or hazardous material information that is available to the temporary employment agency shall be made available to the temporary employee. Such information shall include, but is not limited to,"**.

Page 12, line 6, delete "A" and insert **"a"**.

Page 12, delete lines 15 through 27.

Page 12, line 37, delete "work. This subdivision does" and insert **"work ;"**.

Page 12, delete lines 38 through 42.

Page 13, delete line 1.

Page 13, line 8, delete "may" and insert **"shall"**.

Page 13, line 11, after "employee" insert **;"**.

Page 13, delete lines 12 through 13.

Page 13, line 14, delete "other fees or charges paid or payable" and insert **"the itemized deductions made from the wage payment made"**.

Page 13, line 14, after "temporary" insert **"help employee by the temporary"**.

Page 13, line 15, after "agency" delete "by or on behalf of the client company with respect" and insert **;" and"**.

Page 13, delete line 16.

Page 13, line 18, after "agency;" insert **"and"**.

Page 13, line 21, delete **;" and"** and insert **;"**.

Page 13, delete lines 22 through 26.

Page 14, line 3, delete "more than a reasonable amount".

Page 14, line 4, delete "worksite, but the amount" and insert **"worksite;"**.

Page 14, delete lines 5 through 6.

(Reference is to HB 1706 as printed February 14, 2001.)

LIGGETT

HB 1706—LS 7723/DI 96+



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